

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3506 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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CHAUDHARY PATEL NARSINHBHAI SAKTABHAI

Versus

STATE OF GUJARAT

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Appearance:

MR VASANT S SHAH for Petitioner

Mr.M.A.Patel, Addl.PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 31/08/98

ORAL JUDGEMENT

1. Hearde the Ld.Advocate Mr.V.S.Shah for petitioner. Rule. Ld.APP Mr.M.A.Patel waives service of rule on behalf of respondent No.1. By consent of learned advocates appearing for parties matter is finally taken up for final hearing.

2. The petitioner has prayed for withdrawal of amount of Rs.10,000/- deposited by the petitioner in the Sessions Court at Mehsana pursuant to earlier order passed by this court true copy of which is produced at Annexure A at page 6. The said order is passed in the proceedings of Misc.Cri.Appln.No.1427/92. Vide said order the petitioner was ordered to be enlarged on bail on conditions stated in the order which includes the condition of depositing Rs.10,000/- before the Sessions Court at Mehsana by way of security towards his good conduct pending trial and while he is on bail. It is further observed in the order that the said amount as deposited by the petitioner shall be returned to him with the accrued interest thereon on completion of trial irrespective of the result of trial.

3. It may be noted that the petitioner was arrested in connection with the offence registered at Sami PS district Mehsana vide Cr.Reg.No. 62/92 under section 8(c) of NDPS Act. On completion of investigation the Investigation Officer filed report under section 169 Cr.P.C. in the court of Ld.JMFC, Harij on 11.10.1992. That thereafter Ld.JMFC, Harij after hearing the matter accepted the said report granting "C" summary as prayed for by the Investigation Officer in respect to offence registered against the present petitioner. It is also stated at Bar on behalf of the petitioner that no further proceedings have been taken up by the State against the said order of JMFC, Harij. In view of the same as no trial is required to be taken place the petitioner has claimed return of amount of Rs.10,000/- which is invested by the Sessions Court, Mehsana in FDR account.

4. Ld.APP-Mr.Patel has verified the order of acceptance of "C" summary passed by the Ld.JMFC, Harij against the petitioner in respect to said offence vide Cri.Reg.No.62/92 filed at Sami PS, Taluka Patan, Dist.Mehsana.

5. On the above stated discussion, I do not find any reason as to why the petitioner should not be permitted to withdraw the said amount. Hence petition is allowed and the petitioner is permitted to claim withdrawal of Rs.10,000/-vide receipt No.124025, dated 30.4.92 in the Sessions Court at Mehsana which subsequently was invested by the court as per the order passed by this court dated 28.4.92 in the proceedings of Misc.Cr.A No.1427/92. Rule is made absolute accordingly. No costs.

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